

different process. (Emphasis added.) The reason given to justify the Restriction states that the product claimed (claims 1-13) can be made by another and materially different process than that of the process claimed (claims 14-23). Applicants respectfully disagree with the stated reason.

Firstly, the product claims (i.e. claims 1-13) closely follows the process claims (i.e., claims 14-23). For instance, the product claims recite the same materials and structure as recited in the process claims. Secondly, the alleged “different process” presented in the Restriction is basically the same process as recited in the process claims 14-23 but the steps are presented in different order. It is reminded that the claimed product must be shown to be made by a **materially** different process. The alleged “different process” submitted in the Restriction to justify that the inventions are distinct is **materially** the same as the claimed process as the same materials and structures are used. As claims 14-23 do not recite any specific order, merely re-arranging the recited steps do not constitute a **materially** different process. Therefore, Applicants respectfully assert that the Restriction fails to show that the process and the product **as claimed** are independent and distinct.

The argument that the claim groups have different classification and/or search is not pertinent if the claimed inventions cannot be shown to be independent and distinct. The different classification and/or search argument is only to show “burden” on the Examiner and only applies **after** the claimed inventions are shown to be independent and distinct. As explained above, Applicant respectfully asserts that the Restriction fails to establish such a showing. Moreover, because the claimed product and process recite components and features that are materially the

same, merely suggesting different class/subclass where relevant art can be found is not evidence that the claimed inventions are “divergent” subject matter as alleged in the Restriction.

For at least these reasons, Applicants assert that the Restriction is improper and all the claims should be examined together.

CONCLUSION

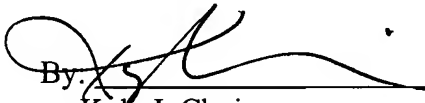
In view of the foregoing, reconsideration and timely allowance of the pending claims are respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants’ undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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